

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

02/06/2019 9:31 AM
U.S. DISTRICT COURT
N.D. OF ALABAMA

GUNTER K. HOFMANN,
Derivatively on Behalf of Nominal
Defendant CAREMARK RX, INC.,

Plaintiff,

v.

EDWIN M. BANKS; C. DAVID BROWN, II;
COLLEEN CONWAY-WELCH; EDWIN M.
CRAWFORD; HARRIS DIAMOND; JAMES
H. DICKERSON, JR.; KRISTEN E. GIBNEY
WILLIAMS; EDWARD L. HARDIN, JR.;
ROGER L. HEADRICK; TED H.
MCCOURTNEY; C.A. LANCE PICCOLO;
JOHN J. ARLOTTA; CHARLES C. CLARK;
PETER J. CLEMENS, IV; SARA J. FINLEY;
BRADLEY S. KARRO, and MARK S.
WEEKS,

Defendants,

and

CAREMARK RX, INC.,

Nominal Defendant.

CIVIL ACTION NO.:
CV-02-N-1827-S

CONSENT MOTION TO REMAND

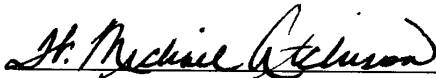
COME NOW Defendants Edwin M. Banks ("Banks"), C. David Brown, II ("Brown"), Colleen Conway-Welch ("Conway-Welch"), Edwin M. Crawford ("Crawford"), Harris Diamond ("Diamond"), James H. Dickerson, Jr. ("Dickerson"), Kristen E. Gibney-Williams ("Gibney-Williams"), Edward L. Hardin, Jr. ("Hardin"), Roger L. Headrick ("Headrick"), Ted H. McCourtney ("McCourtney"), C.A. Lance Piccolo ("Piccolo"), John J. Arlotta

("Arlotta"), Charles C. Clark ("Clark"), Peter J. Clemens, IV ("Clemens"), Sara J. Finley ("Finley"), Bradley S. Karro ("Karro"), and Mark S. Weeks ("Weeks") (collectively "Defendants") and, pursuant to 28 U.S.C. § 1447(c), hereby move this Court to remand the above-captioned action to the Circuit Court of Jefferson County, Alabama.

At the time Defendants removed this case (formerly styled as Hofmann v. Banks et al., Civil Action No. CV 02 3861, Circuit Court, Jefferson County, Alabama), Defendants had a good-faith basis upon which to seek removal. After filing their removal petition, Defendants became aware of facts and circumstances suggesting that this Court lacks subject matter jurisdiction. Desiring to avoid delay and to conserve the resources of this Court and the parties, Defendants respectfully request that the Court remand this action, pursuant to its authority under 28 U.S.C. § 1447(c), to the Circuit Court of Jefferson County, Alabama.

Counsel for Defendants has contacted Plaintiff's counsel about this motion and Plaintiff consents to the motion and the relief sought. Nominal Defendant Caremark Rx, Inc. also consents to the motion and the relief sought. Caremark Rx, Inc.'s consent is attached to this motion as Exhibit A, and a proposed Order is attached as Exhibit B.

Respectfully submitted this 24 day of August, 2002.


W. Michael Atchison, Esq. (ATC 003)
Attorney for Defendants

OF COUNSEL:

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KING & SPALDING
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have on this date served a copy of the foregoing CONSENT MOTION TO REMAND on counsel of record for all parties by depositing a copy of same in the U.S. Mail, with adequate postage affixed thereto, addressed as follows:

Michael Straus, Esq.
Lange Clark, Esq.
Straus & Boies, LLP
1130 22nd Street South
Birmingham, Alabama 35205

Robert B. Weiser, Esq.
Eric L. Zagar, Esq.
Schiffirin & Barroway, LLP
Three Bala Plaza East, Suite 400
Bala Cynwyd, PA 19004

This 1st day of August, 2002.


W. Michael Atchison, Esq.
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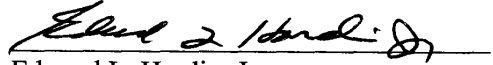
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**CAREMARK RX, INC.'S CONSENT TO AND
JOINDER IN CONSENT MOTION TO REMAND**

Nominal Defendant Caremark Rx, Inc. ("Caremark") is identified as a nominal defendant in Hofman v. Banks et al., which is currently pending in the United States District Court for the Northern District of Alabama, Civil Action No. CV 02 3861.

Caremark hereby respectfully consents to and joins in the Consent Motion to Remand, which Motion seeks remand of the above-captioned action to the Circuit Court of Jefferson County, Alabama.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Edward L. Hardin, Jr.", is written over a horizontal line.

Edward L. Hardin, Jr.
Executive Vice-President and General
Counsel for Caremark Rx, Inc.



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ORDER

This matter was brought before the Court on _____, 2002 on a Consent Motion to Remand. Having reviewed the Motion, and pursuant to its authority under 28 U.S.C. § 1447(c), this Court hereby orders that the Consent Motion to Remand is **GRANTED**.

Accordingly, the above-captioned case is **REMANDED** to the Circuit Court of Jefferson County, Alabama, with each side to bear its own costs.

This ____ day of _____, 2002.

The Honorable Edwin L. Nelson
United States District Court Judge